



**MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
JULY 14, 2004**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Jeffery Schwartz, Commissioner
Steven Steinke, Commissioner

ABSENT: Eric Hess, Commissioner

STAFF: Pat Boomsma
Tim Curtis
Scott Hamilton
Kurt Jones
Phil Kercher
Suzanne Colver
Bill Verschuren
Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

APPROVED

MINUTES APPROVAL

June 23, 2004

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE JUNE 23, 2004 MINUTES AS PRESENTED. SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

CHAIRMAN GULINO reported case 8-AB-2004 will be pulled from the expedited agenda and placed on the regular agenda. Cases 7-GP-2004, 7-ZN-2004, 8-ZN-2004, and the correspondence to City Council re: recommending priorities and planning staff work plan issues will be pulled from the regular to expedited agenda.

CONTINUANCES

7-UP-2004 (Sonrise Community Church) request by Dale Miller Architects, applicant, Sonrise Community Church, owner, for a conditional use permit for a private/charter school on a 9.2 acre +/- acre parcel located at 29505 N Scottsdale Road with Single Family Residential, Environmentally Sensitive Lands District, Foothills Overlay (R1-70 ESL FO).

COMMISSIONER HEITEL MOVED TO CONTINUE CASE 7-UP-2004 TO THE AUGUST 18, 2004 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER STEINKE.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

EXPEDITED AGENDA

7-AB-2004 (Urman Residence) request by Mike March, applicant, Eitan & Ronit Urman, owner to abandon a portion of right-of-way for Buckskin Road.

8-AB-2004 (Mark Lane Abandonment) request by Ralph & Kelly Van Dyke, applicant/owner, to abandon the right-of-way easements for Mark Lane and associated General Land Office easements immediately east of 75th Street.

(PULLED TO REGULAR AGENDA)

10-AB-2004 (Vista Collina) request by Kimley Horn & Associates Inc., applicant, Cielo Vista Collina LLC, owner, to abandon the remainder of the right-of-way located in the northeast corner of the property at 11635 N. 134th Street.

APPROVED

10-ZN-2004 (School of Real Estate & Business) request by Tom Denny Architecture, applicant, William Gray, owner, to rezone from Highway Commercial District, Downtown Overlay (C-3 DO) to Downtown/Office Commercial Type 2 District, Downtown Overlay (D/OC-2 DO) on approximately 1 acre parcel (lots 13-16 and a small portion of lot 17) located at the northeast corner of Marshall Way and 2nd Street.

COMMISSIONER HEITEL MOVED TO FORWARD CASES 7-AB-2004, 10-AB-2004, 10-ZN-2004, 8-ZN-2004 AND THE CORRESPONDENCE TO THE CITY COUNCIL RE: RECOMMENDING PRIORITIES AND PLANNING STAFF WORK PLAN ISSUES TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

7-GP-2004 (Waterford Villas) request by Biskind Hunt & Taylor, applicant, Herberger Foundation, owner, for a non-major General Plan amendment from Office to Urban Neighborhoods on a 5.45 +/- acre parcel located at 10757 N. 74th Street (Northeast corner of Shea Blvd & 74th Street).

7-ZN-2004 (Waterford Villas) request by Biskind Hunt & Taylor, applicant, Herberger Foundation, owner, to rezone from Service Residential District (S-R) to Medium-Density Residential District (R-3) on a 5.45 +/- acre parcel located at 10757 N. 74th Street (Northeast corner of Shea Blvd & 74th Street).

(COMMISSIONER SCHWARTZ DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE DISCUSSION OR VOTE ON CASES 7-GP-2004 AND 7-ZN-2004)

CHAIRMAN GULINO reported that he had received a citizen comment card for cases 7-GP-2004 and 7-ZN-2004. He further reported that this person would be allowed to speak and if any issues are raised or if there needs to be further discussion that case would be put back on the regular agenda.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

RANDOLPH S. WRIGHT, 7515 E. Mercer Lane, stated the reason for the need to rezone this property has never been explained to the homeowners. He inquired about the rationale for rezoning from SR to R-3. He inquired why does this property need to be rezoned and how does it improve the surrounding properties.

COMMISSIONER HEITEL inquired if there were not opportunities for Mr. Wright to meet with the developer. Mr. Wright reported that he met with the developer but the questions he has posed were not answered.

APPROVED

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

CHAIRMAN GULINO reported two of the Commission members' have requested these cases be placed back on the regular agenda.

REGULAR AGENDA

7-GP-2004 (Waterford Villas) request by Biskind Hunt & Taylor, applicant, Herberger Foundation, owner, for a non-major General Plan amendment form Office to Urban Neighborhoods on a 5.45 +/- acre parcel located at 10757 N. 74th Street (Northeast corner of Shea Blvd & 74th Street).

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MR. CURTIS presented cases 7-GP-2004 and 7-ZN-2004 as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER HEITEL inquired if there were any issues raised at any of the open houses. Mr. Curtis replied there were early concerns regarding rezoning the neighborhood and the applicant will go into detail how those issues were resolved. The primary concerns were regarding height and traffic.

VICE CHAIRMAN STEINBERG inquired if there is an emergency access. Mr. Curtis replied in the affirmative that it is off of Shea.

SHELLY MCTEE, Biskind Hunt & Taylor, 11201 N. Tatum Blvd., Suite 330, Phoenix, AZ, representing the Zarembo Group the developer of this site, stated they have been working with the surrounding property owners and discussed what they have done to address their concerns. In the materials there is a letter from the Board of Directors from the HOA that they agreed with the stipulations, which were provided to the city and then they will go on to DRB because some of those were DRB issues. She reviewed the outreach that was done regarding these cases. She further stated that they felt the proposed use for this site is excellent and very appropriate and provides a buffer before you get to the very busy business commercial intersection. It is a good transition and meets several elements set forth in the General Plan.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

CHAR UGAUL, 10889 N. 75th Place, stated that she lives in Crestwood and nobody in her development received any notice that this was happening except

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for a card they received for tonight. She further stated there are a lot of large homes up to an acre on the right of 75th Place. She inquired how this project is going to enhance their property values. She expressed her concern regarding increased traffic because of this project.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

MS. MCTEE reported we did send out at least two letters to everyone within 750 feet of the site and she would confirm that she did received a letter and would apologize if she did not. She further reported with regard to the concern regarding traffic generated on this site, the city required a traffic analysis and it was determined this use would generate less traffic than if it were offices. She explained regarding property values these units prices will start at the high \$200s to low \$300s.

COMMISSIONER STEINKE MOVED TO FORWARD CASE 7-GP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HEITEL.

COMMISSIONER HEITEL stated it seems the applicant has done a lot of work in the neighborhood and if there are a few neighbors that still need information, he was sure the applicant could provide that information. He further stated that it looks like a very high-end project that would benefit the area.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0) WITH COMMISSIONER SCHWARTZ ABSTAINING.

COMMISSIONER STEINKE MOVED TO FORWARD CASE 7-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0) WITH COMMISSIONER SCHWARTZ ABSTAINING.

8-ZN-2004 (McDowell Mountain Business Park) request by Beus Gilbert PLLC, applicant, The Horwitch Group LLC, owner, to rezone from General Commercial, Planned Community Development District (C-4 PCD) to Industrial Park, Planned Community Development District (I-1 PCD) on approximately 1 acre and amend development standards/stipulations/site plan to case 7-ZN-2000 on a 16+/- acre parcel located at the southwest corner of 90th Street & Bahia Drive.

(PULLED TO EXPEDITED AGENDA)

8-AB-2004 (Mark Lane Abandonment) request by Ralph & Kelly Van Dyke, applicant/owner, to abandon the right-of-way easements for Mark Lane and associated General Land Office easements immediately east of 75th Street.

MR. WARD presented this case as per the project coordination packet. Staff recommends approval.

SCOTT HAMILTON, Trails Coordinator, presented information on the trails plan for this area. He reported a trail was recently constructed on 76th Street on the east side of the street. The trail on 74th and Dale and Dynamite does not exist yet. The subject property does not affect any of these alignments.

COMMISSIONER BARNETT inquired if the trail is between the abandonment and the road. Mr. Hamilton explained the request is to abandon a portion along 75th Street and the trail is along 76th Street. There is an existing trail on the east side of 76th. The trail on 74th and Dale that does not exist. The trails master plan does not show a trail on 75th Place.

COMMISSIONER HEITEL stated there has been a lot of discussion regarding the Desert Foothills road profiles and specific road profiles would become more definitive for planning purposes. Part of that discussion centered on making sure the city did not in these areas abandon certain opportunities where a road might need to meander. This relates to the equestrian trail use along each of these roads. He further stated that he felt it would be smart to continue with that policy or come up with a definitive end to this discussion about road profiles. Mr. Hamilton reported the process they developed is one where the trails master plan works in tandem with the streets master plan.

PHIL KERCHER Transportation Department, provided an overview on the way staff look at these when they review these abandonment requests.

COMMISSIONER BARNETT inquired if there were any other abandonments along the surrounding properties on the 76th Street side. Mr. Jones reviewed on a graphic where the other abandonments exist noting the dedications are haphazard depending on development through this area. Commissioner Barnett requested if in the future this data could be included in their packets to allow them to understand what is happening in the area.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY)

TONY NELSEN, 7736 E. Redbird Road, representing Desert Foothills Property Owners Association, stated their Association has been involved in development issues in the northern part of the city since they annexed in 1983. He further stated the issue at hand is one of policy and planning. He commented that he would not bore them with the legal issues regarding GLO easements. He further

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commented that Mr. Jones used the word haphazard abandonment in this area. He explained that when they worked on the update of trails master plan they asked to reserve equestrian easements on all GLO patents. Those patents running 33 feet around 10 acres so gives 66 foot easements between the adjoining 10 acres quadrants which four make up the 40 acres that are on the trails plan. Today it works well but we are not built out and have dirt roads with low traffic volume but it will not always be that way. This plan puts all of the equestrian and pedestrian use right next to traffic. He reported that he has no issue with the abandonment of the right-of-way for additional road but he does need the right-of-way for equestrian and pedestrian use. He asked that in lieu of abandoning the right-of-way for cars is to reserve a 15-foot equestrian easement.

COMMISSIONER SCHWARTZ inquired if Mr. Nelssen had talked to the property owner regarding reserving a 15-foot equestrian easement. Mr. Nelssen replied he spoke to him just a few minutes ago and from what he gathered it was the city that recommended he go through this process.

LEON SPIRO, 7814 E. Oberlin Way, requested the following questions be answered:

1. Is the previous Councils decision to disregard the "risk factor" because of a possible private property rights issue, binding on this new Council and this present Planning Commission?
2. Did any member of the city staff other than the Engineering Services Director have the authority to abandon and/or exchange a GLO roadway easement? (Reference Ordinance 1386)
3. Can staff provide letters and/or memos of approval by department directors for support of items in "Department Issues Checklist"?
4. Why was the Legal Department opinion request not listed in this "Department Issues Checklist"?
5. Can the Transportation Director produce a Council approved Street circulation plan for this neighborhood?
6. As in the past, is the Council/Planning Commission only "abandoning the cities interest and the public's right to these GLO-Federal Land Patent Reservations?"

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY)

CHAIRMAN GULINO advised Mr. Spiro that we respect your opinion and his position but as he has been advised before the Commission deals with land use issues not legal issues and these issues would be better taken up at the Council hearing.

COMMISSIONER SCHWARTZ MOVED TO FORWARD CASE 8-AB-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL.

APPROVED

THE MOTION DIED DUE TO LACK OF A SECOND.

COMMISSIONER HEITEL stated he thought until the issues regarding rural street profiles have been definitively clarified and until they hear from Desert Foothills community that they are comfortable with the non-motorized easements that are available now and maybe available in the future that we act more cautiously. He further stated that he would support something in between.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 8-AB-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL WITH THE FOLLOWING CONDITIONS:

THE 20 FEET WIDE HALF STREET OF MARK LANE BE ABANDONED ALONG WITH THE ASSOCIATED CITY OF SCOTTSDALE'S INTEREST IN THE 33-FOOT WIDE GLO EASEMENT RESERVING 15-FOOT NON-MOTORIZED EASEMENT ALONG THAT PROPERTY LINE.

THE OTHER PORTION OF THIS REQUEST THAT WE ABANDON THE CITY'S INTEREST IN THE 13-FOOT GLO EASEMENT ON 75TH STREET NOT BE ACCEPTED AT THIS TIME.

SECOND BY COMMISSIONER BARNETT.

COMMISSIONER SCHWARTZ inquired if on the previous cases they have seen on GLO easements and abandonments of rights-of-ways in this area if they have reserved any rights for trails. Mr. Jones replied on some cases they have and other they have not. Commissioner Heitel clarified that some of the cases the Commission heard were outside the Desert Foothills area. The important distinction is that this issue is of particular importance to this area.

COMMISSIONER STEINKE stated that one of his concerns with this approach to this particular property is that it seems to be just as haphazard as the request that is on the table. We are isolating a single case and making a decision based upon a single case and because their job is planning he needs to find a common reference point from which to make these kinds of decisions. He concluded he would not support the motion.

COMMISSIONER HEITEL provided some historical perspective on this issue as it relates to the Desert Foothills area. He reported that they need consistency in these applications and with his motion, he was trying to bring some consistency.

COMMISSIONER SCHWARTZ stated that he felt consistency is important but consistency needs to start at the planning level on how they connect it. He further stated that he felt sorry for Mr. and Mrs. Van Dyke because they have come a long way to this process and not had opposition until tonight. He further

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stated that they need a trails system but nonetheless they are holding the Van Dykes hostage and that is unfair. He suggested that if they cannot forward an approval that they continue this case and have planning staff look at this issue and allow Mr. Nelssen to have some dialogue with the property owners.

COMMISSIONER BARNETT stated that the intent of this motion does provide some consistency with leaving the 15-foot easement for non-motorized vehicles.

CHAIRMAN GULINO thanked Mr. Nelssen for his presentation noting that his points were well taken. He stated that he felt there are issues related to having trails next to busy streets. He further stated the purpose of the Trails Master Plan was to allow them to be able to avoid these types of discussions at this level. He commented that he felt the applicant was being tossed around in this process. He further commented that the Commission is taking a summer break and will not be meeting for another six weeks and thought that might cause the applicant a hardship if they had to wait another month.

CHAIRMAN GULINO called for the vote.

THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3) WITH CHAIRMAN GULINO, COMMISSIONER SCHWARTZ, AND COMMISSIONER STEINKE DISSENTING.

CHAIRMAN GULINO requested in the future GLO easement applications additional information is included in their packets to allow them to understand what is happening in the area.

WRITTEN COMMUNICATION

Correspondence to City Council re: recommending priorities and planning staff work plan issues.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 6:20 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

APPROVED